

MAY 21 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LARRY GENE BAILEY, Jr.,

Defendant - Appellant.

No. 07-30088

D.C. No. CR-06-05206-RBL

MEMORANDUM^{*}

Appeal from the United States District Court
for the Western District of Washington
Ronald B. Leighton, District Judge, Presiding

Submitted May 20, 2008^{**}

Before: PREGERSON, TASHIMA, and GOULD, Circuit Judges.

Larry Gene Bailey, Jr., appeals from his guilty-plea conviction and
120-month sentence for bank robbery, in violation of 18 U.S.C. § 2113(a).

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Bailey's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. We provided the appellant the opportunity to file a pro se supplemental brief, and we construed a subsequent letter from appellant as a supplemental brief. Appellant then filed a second letter stating that he did not intend the first letter to constitute a brief, and requesting appointment of counsel. Appellant was given the opportunity to file a replacement pro se supplemental brief, but no replacement brief has been filed. No answering brief has been filed.

Our review of the briefs and record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80-81 (1988), discloses no arguable grounds for relief on direct appeal.

Accordingly, counsel's motion to withdraw is **GRANTED**, appellant's request for appointment of counsel is **DENIED**, and appellant's conviction and sentence are **AFFIRMED**.

Because the district court's judgment incorrectly identifies 18 U.S.C. § 2113(f) as the statute of conviction, rather than 18 U.S.C. § 2113(a), as charged in the sole count of the indictment, we **REMAND** for the limited purpose of correcting the judgment. *See United States v. Rivera-Sanchez*, 222 F.3d 1057, 1062 (9th Cir. 2000).